

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO**

In re:

ROMAN CATHOLIC CHURCH OF THE  
ARCHDIOCESE OF SANTA FE, a New  
Mexico corporation sole,

Debtor.

Chapter 11

Case No. 18-13027-t11

**MOTION FOR AN ORDER UNDER 11 U.S.C. § 107 AND FED. R. BANKR. P. 1007(j)  
AND 9018 AUTHORIZING DEBTOR TO FILE PORTIONS OF SCHEDULE E/F, THE  
MASTER MAILING LIST AND OTHER PLEADINGS AND DOCUMENTS UNDER  
SEAL AND RELATED RELIEF**

Roman Catholic Church of the Archdiocese of Santa Fe, a New Mexico corporation sole, the debtor and debtor-in-possession (“ADSF”) in the above captioned Chapter 11 reorganization case (the “**Reorganization Case**”), by and through its proposed attorneys undersigned, respectfully requests that the Court enter an Order pursuant to 11 U.S.C. § 107 and Fed. R. Bankr. P. 1007(j) and 9018 authorizing ADSF to file portions of Schedule E/F, the Master Mailing List and any other pleadings, reports or other documents that might be filed from time to time in the Reorganization Case, which disclose the names of individuals who have, either informally, formally, or through filing a lawsuit, notified ADSF that they were sexually abused by workers of the Catholic Church, and authorizing ADSF to provide copies of the sealed portions of any such pleadings, reports, lists or documents to the Office of the United States Trustee and to counsel for a creditors’ committee when one is formed, subject to a confidentiality protocol to be agreed upon between ADSF, the Office of the United States Trustee, and such counsel for a creditors’ committee and approved by the Court.

This Motion presents a “core proceeding” over which the Court has jurisdiction to enter a final order under 28 U.S.C. §§ 157 (A) & (O), and 1334. This Motion is supported and authorized

by 11 U.S.C. §§ 105 and 107 and Fed. R. Bankr. P. 1007(j). Proceedings on this Motion are governed by Fed. R. Bankr. P. 9018.

This Motion is supported by: “Declaration of Tony Salgado in Support of Chapter 11 Petition and First Day Motions” (the “**Salgado Declaration**”); and (iii) the entire record before the Court in this Chapter 11 Reorganization Case.

## **I. BACKGROUND**

On December 3, 2018 (the “**Petition Date**”), ADSF commenced this Reorganization Case by filing a voluntary Chapter 11 petition. ADSF has remained a debtor-in-possession under 11 U.S.C. §§ 1107 and 1108 since the Petition Date. ADSF filed the Reorganization Case in order to reorganize its financial affairs pursuant to a plan of reorganization that will, among other things, fairly, justly and equitably compensate those injured by sexual abuse at the hands of workers of the Catholic Church while allowing ADSF to continue its ministry and mission and attempt to finally bring healing to those injured by abuse, parishioners and others affected by the past acts of sexual abuse committed by workers of the Catholic Church within the geographic area of the Archdiocese of Santa Fe.

The Debtor in this Reorganization Case is ADSF which is a New Mexico corporation sole,<sup>1</sup> formed under the laws of the State of New Mexico. The Debtor conducts its business/civil affairs under the laws of New Mexico and the United States and in accordance with the Code of Canon Law (“**Canon Law**”), the ecclesiastical law of the Roman Catholic Church. ADSF acquires and holds property and conducts its civil affairs for the practice of the Roman Catholic religion in the

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<sup>1</sup> New Mexico no longer has the corporation sole form of incorporation but an entity formed as a corporation sole at the time New Mexico provided for that form of incorporation was not required to re-incorporate as a non-profit corporation, but was allowed to continue its existence as a corporation sole.

geographic area that has been decreed as the Archdiocese. The Archbishop of the Archdiocese has responsibility for the Roman Catholic faithful within the geographic territory of the Archdiocese and carries out his duties in accordance with Canon Law. The Archbishop is also the sole member of ADSF.

## **II. LEGAL ARGUMENT**

11 U.S.C. § 107(b) provides Bankruptcy Courts with the power to issue orders that will protect entities and individuals from potential harm that may result from disclosure of potentially scandalous or defamatory information. This section provides in relevant part:

(b) On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, the bankruptcy court may--

(1) protect an entity with respect to a trade secret or confidential research, development, or commercial information; or

(2) protect a person with respect to scandalous or defamatory matter contained in a paper filed in a case under this title.

Furthermore, Fed. R. Bankr. P. 1007 (j) provides:

(j) Impounding of Lists.

On motion of a party in interest and for cause shown the court may direct the impounding of the lists filed under this rule, and may refuse to permit inspection by any entity. The court may permit inspection or use of the lists, however, by any party in interest on terms prescribed by the court.

Also, Fed. R. Bankr. P. 9018 defines the procedures by which a party may move for relief under 11 U.S.C. § 107(b) and provides in relevant part:

On motion or on its own initiative, with or without notice, the court may make any order which justice requires ... to protect any entity against scandalous or defamatory matter contained in any paper filed in a case under the Code[.]

Pursuant to this authority, ADSF requests the Court allow it to file portions of Schedule E/F, the Master Mailing List and any other pleadings, reports or other documents that might be filed from time to time in the Reorganization Case, which disclose the names of individuals who

have, either informally, formally, or through filing a lawsuit, notified ADSF that they were sexually abused by workers of the Catholic Church, and authorizing ADSF to provide copies of the sealed portions of any such pleadings, reports, lists or documents to the Office of the United States Trustee and to counsel for a creditors' committee when one is formed, subject to a confidentiality protocol to be agreed upon between ADSF, the Office of the United States Trustee, and such counsel for a creditors' committee, and approved by the Court. The Bankruptcy Code and the Bankruptcy Rules specifically contemplate such relief.

Many individuals who have informally, formally, or through filing a lawsuit, notified ADSF that they were sexually abused by workers of the Catholic Church, have done so under pseudonyms or have disclosed their names expecting that their identities would be held in confidence by ADSF. Accordingly, ADSF has the duty to keep the identities of abuse claimants private. Furthermore, such claimants should not be forced to make their identities public in order to participate in this Reorganization Case. ADSF has no objection if individuals who notified ADSF that they were sexually abused by workers of the Catholic Church decide to make their identities public; however, ADSF believes that the decision should be left to each individual and should not be forced upon them.

In addition, the relief requested allows for ADSF to provide the actual names of the known claimants to the Office of the United States Trustee and to counsel for a creditors' committee, when one is formed, subject to a confidentiality protocol to be agreed upon between ADSF, the Office of the United States Trustee, and such counsel for a creditors' committee and approved by the Court.

Advance determination of the Motion is necessary so that the ADSF can file all of the necessary pleadings with respect to commencement of the Reorganization Case and comply with applicable requirements of disclosure required by the Bankruptcy Code and the Bankruptcy Rules.

### **III. CONFIDENTIALITY PROTOCOL.**

ADSF shall institute the following protocol in order to maintain the confidentiality of those injured by sexual abuse at the hands of workers of the Catholic Church including names of claimants and any other identifying information such as a social security number, address, telephone number, names of close relatives, e-mail addresses, or other similar information (the “**Confidential Identifying Information**”):

A. ADSF shall file portions of Schedule E/F, the Master Mailing List and any other pleadings, reports or other documents that might be filed from time to time in the Reorganization Case containing the Confidential Identifying Information (collectively, the “**Sealed Pleadings**”) under seal pursuant to 11 U.S.C. § 107(b) and Fed. R. Bankr. P. 1007(j) and 9018;

B. ADSF shall provide the Sealed Pleadings to the Office of the United States Trustee and the United States Trustee shall be authorized to use the Sealed Pleadings in discharge of its duties and obligations under Title 11 and 28 of the United States Code, including, but not limited to, the solicitation and appointment of any committee appointed under 11 U.S.C. § 1102; and

C. ADSF shall provide the Sealed Pleadings to counsel for any committee appointed under 11 U.S.C. § 1102, but only after these Confidentiality Protocols are agreed upon by ADSF, United States Trustee, and counsel for any committee appointed in this case, and such Confidentiality Protocols have been approved by the Court. Should the parties be

unable to jointly agree upon this Confidentiality Protocol or other mutually agreed upon procedures, the matter shall be submitted to the Court;

D. ADSF, the United States Trustee and counsel for any committee shall seek agreement on which members of any committee (chair or all members) shall be entitled to receive Sealed Pleadings, and under what conditions this receipt may occur, ensuring no further re-disclosure. Should the parties be unable to jointly agree upon these issues, the matter shall be submitted to the Court;

E. Establishing the following procedures for any and all parties to follow when filing a pleading, report or other document that contains the Confidential Identifying Information and requiring such documents to be filed under seal: (i) for CM/ECF participants, the sealed documents must be filed in accordance with CM/ECF Electronic Filing Manual; (ii) for all other parties, the sealed documents must be delivered to the Clerk's Office in a sealed envelope. A copy of the Court's order authorizing the sealing of the documents must be attached to the outside of the envelope. The party filing the pleading, report or other document containing the Confidential Identifying Information must serve a copy of the un-redacted version on ADSF and the affected party; and

F. Any party shall be allowed to file a motion to file any other pleading, report, or document under seal (the "**Motion to Seal**"); requiring the party filing the Motion to Seal to serve the Motion to Seal on the parties on the ADSF, Office of the United States Trustee and affected parties; and requiring the moving party to provide at least 48 hours notice of the Motion to Seal, but nothing in this Order will preclude the Court, in its discretion, from acting on the Motion to Seal ex parte, with or without a hearing;

WHEREFORE, ADSF respectfully requests that the Court enter an Order:

- A. Approving the Motion and the Confidentiality Protocol as set forth above;
- B. Directing that nothing in any order granting this Motion shall constitute a waiver with respect to matters contained therein, including, without limitation, a waiver of the right to object to the standing of any party, a waiver of the right to oppose the Motion to Seal under Paragraph F, or a waiver of the right to request that a document be unsealed;
- C. Directing that any order granting this Motion be without prejudice to any future determined confidentiality protocol regarding filing of proofs of claim and objections to proofs of claim;
- D. Authorizing ADSF, its officers, employees and agents to take such acts as are necessary and appropriate to implement and effectuate the relief granted herein;
- E. Retaining jurisdiction over any matters arising from or related to the implementation or interpretation of this Order; and
- F. Granting such other relief as the Court deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED this 3<sup>rd</sup> day of December, 2018.

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-and-

/s/ Stephanie L. Schaeffer

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## **CERTIFICATE OF SERVICE**

Pursuant to F.R.C.P. 5(b)(3), F.R.B.P. 9036 and NM LBR 9036-1(b), I hereby certify that service of the foregoing document was made on December 3, 2018 via e-mail and the notice transmission facilities of the Bankruptcy Court's case management and electronic filing system on the following parties:

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### ***Courtesy Copy to:***

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20 largest unsecured creditors

DATED this 3<sup>rd</sup> day of December, 2018

/s/ Stephanie Schaeffer

Stephanie Schaeffer

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO**

In re:

ROMAN CATHOLIC CHURCH OF THE  
ARCHDIOCESE OF SANTA FE, a New Mexico  
corporation sole,

Debtor.

Chapter 11

Case No. 18-13027-t11

**[PROPOSED] ORDER GRANTING DEBTOR'S MOTION AUTHORIZING DEBTOR  
TO FILE PORTIONS OF SCHEDULE E/F, THE MASTER MAILING LIST AND  
OTHER PLEADINGS AND DOCUMENTS UNDER SEAL AND RELATED RELIEF**

This matter came before the Court upon the Motion for an Order Under 11 U.S.C. § 107 and Fed. R. Bankr. P. 1007(j) and 9018 Authorizing Debtor to File Portions of Schedule E/F, the Master Mailing List and Other Pleadings and Documents Under Seal and Related Relief (the “**Motion**”) of the Roman Catholic Church of the Archdiocese of Santa Fe, a New Mexico corporation sole, the debtor and debtor-in-possession (the “**ADSF**”) in the above captioned Chapter 11 reorganization case (the “**Reorganization Case**”). In the Motion, ADSF seeks an Order pursuant to 11 U.S.C.

§107(b) and Fed. R. Bankr. P. 1007(j) and 9018 authorizing ADSF to file portions of Schedule E/F, the Master Mailing List and any other pleadings, reports or other documents, under seal, that might be filed from time to time in the Reorganization Case, which disclose the names of individuals who have, either informally, formally, or through filing a lawsuit, notified ADSF that they were sexually abused by workers of the Catholic Church, and authorizing ADSF to provide copies of the sealed portions of any such pleadings, reports, or documents to the Office of the United States Trustee. Based upon the Motion, the entire record before the Court; and it appearing that the Court has jurisdiction over this matter; and it appearing that due notice of the Motion as set forth in the “Certificate of Service” attached thereto is sufficient under the circumstances, and that no other or further notice need be provided; the relief therein requested being in the best interest of the estate;

IT IS HEREBY ORDERED, that:

- A. The Motion of ADSF is hereby granted as set forth in this Order in its entirety.
- B. ADSF shall institute the following “**Confidentiality Protocol**” in order to maintain the confidentiality of those injured by sexual abuse at the hands of workers of the Catholic Church including names of claimants and any other identifying information such as a social security number, address, telephone number, names of close relatives, e-mail addresses, or other similar information (the “**Confidential Identifying Information**”):

- 1. ADSF shall file portions of Schedule E/F, the Master Mailing List and any other pleadings, reports or other documents that might be filed from time to time in the Reorganization Case containing the Confidential Identifying Information (collectively, the “**Sealed Pleadings**”) under seal pursuant to 11 U.S.C. § 107(b) and Fed. R. Bankr. P. 1007(j) and 9018;

2. Notwithstanding the foregoing, ADSF shall provide the Sealed Pleadings to the Office of the United States Trustee and the United States Trustee shall be authorized to use the Sealed Pleadings in discharge of its duties and obligations under Title 11 and 28 of the United States Code, including, but not limited to, the solicitation and appointment of any committee appointed under 11 U.S.C. § 1102; and

3. Notwithstanding the foregoing, ADSF shall provide the Sealed Pleadings to counsel for any committee appointed under 11 U.S.C. § 1102, but only after these Confidentiality Protocols are agreed upon by ADSF, United States Trustee, and counsel for any committee appointed in this case. Should the parties be unable to jointly agree upon these Confidentiality Procedures or other mutually agreed upon procedures, the matter shall be submitted to the Court;

4. ADSF, the United States Trustee and counsel for any committee shall seek agreement on which members of any committee (chair or all members) shall be entitled to receive Sealed Pleadings, and under what conditions this receipt may occur, ensuring no further re-disclosure. Should the parties be unable to jointly agree upon these issues, the matter shall be submitted to the Court;

5. Any and all parties shall follow the following procedures when filing a pleading, report or other document that contains the Confidential Identifying Information and requiring such documents to be filed under seal: (i) for CM/ECF participants, the sealed documents must be filed in accordance with CM/ECF Electronic Filing Manual; (ii) for all other parties, the sealed documents must be delivered to the Clerk's Office in a sealed envelope. A copy of the Court's order authorizing the sealing of the documents must be attached to the outside of the envelope. The party filing the pleading, report or other

document containing the Confidential Identifying Information must serve a copy of the un-redacted version on ADSF and the affected party; and

6. Any party shall be allowed to file a motion to file any other pleading, report, or document under seal (the “**Motion to Seal**”); requiring the party filing the Motion to Seal to serve the Motion to Seal on the ADSF, Office of the United States Trustee and affected parties; and requiring the moving party to provide at least 48 hours notice of the Motion to Seal, but nothing in this Order will preclude the Court, in its discretion, from acting on the Motion to Seal ex parte, with or without a hearing;

C. Nothing in this Order shall constitute a waiver with respect to matters contained in this Order, including, without limitation, a waiver of the right to object to the standing of any party, a waiver of the right to oppose the Motion to Seal under Paragraph H, or a waiver of the right to request that a document be unsealed.

D. This Order is without prejudice to any future determined confidentiality protocol regarding filing of proofs of claim and objections to proofs of claim.

E. ADSF, its officers, employees and agents are authorized to take such acts as are necessary and appropriate to implement and effectuate the relief granted herein.

F. The Court shall retain jurisdiction over any matters arising from or related to the implementation or interpretation of this Order.

G. This Order shall be immediately effective upon entry.

XXX END OF ORDER XXX

Submitted by:

/s/ Thomas D. Walker

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-and-

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